

**REMARKS:**

The preceding amendments to the specification and the following remarks are submitted as a full and complete response to the Office Action issued on December 7, 2007. Currently claims 1-66 are pending, among which 61-65 are withdrawn from substantive examination.

**Objection to the Specification**

The Office has objected the specification for the informality that the trademarks used in the specification are not capitalized and are not accompanied by the generic terminology and mark. Applicants note that the trademarks used in the specification are not all capitalized while they are used with the generic terminology and mark. Applicants have revised the specification to correct this informality, which renders the objection moot. Therefore, withdrawal of this objection is respectfully requested.

**Claim Rejections under 35 U.S.C. §103(a)**

The Office has rejected claims 1-49 and 66 alleging that these claims would have been obvious over U.S. Patent Application Publication No. 2006/0002997 ("Shamar") in view of U.S. Patent No. 4,772,473 ("Patel"). Claims 50-60 have been rejected as obvious over Shamar. Applicants respectfully disagree.

As the Office admits that Shamar does not teach using alginic acid in its sustained release dosage form. While Patel teaches using alginic acid as a suitable pharmaceutical carrier in the formulation of nitrofurantoin, Patel does not specifically teach that alginic acid can be used in the sustained release dosage form for

nitrofurantoin. Thus, the teaching of Patel fails to motivate one skilled in the art to select alginic acid from a laundry list of pharmaceutical carriers described in Patel. In addition, even if there were such a motivation, to the extent that Patel lacks the teaching of using alginic acid as a sustained release polymer, the contribution of alginic acid to sustained release performance of the claimed formulation should not be considered as a predictable result. Thus, Applicants respectfully submit that the cited references, either alone or in combination, does not render obvious the claims of the present application.

Furthermore, Applicants have determined that the present invention was made prior to the effective filing date of Shamar, *i.e.*, its international filing date of August 25, 2003. Enclosed with this Amendment is a Rule 131 Declaration in which the inventors swear behind Shamar, thereby removing Shamar as prior art. The attached Rule 131 Declaration is signed by one of the two inventors, which will be substituted shortly with the Rule 131 Declaration executed by the two inventors. In view of the earlier date of invention and the removal of Shamar as prior art, Applicants respectfully submit reconsideration and withdrawal of the obviousness rejection.

In light of the foregoing, Applicants submit that the outstanding rejection has been overcome, and the instant application is in condition for allowance. Thus, Applicants respectfully request early allowance of the instant application. The

Commissioner is hereby authorized to charge any fees or credit any overpayment to  
Deposit Account No. 02-2135.

Respectfully submitted,

By



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